

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHRISTIAN JAMES SHEPARD,
STEPHANIE MARIE FREEMAN, and ASHLEE
NICHOLE FREEMAN, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MELLISSA MARIE SHEPARD,

Respondent-Appellant,

and

SHAWN CHRISTOPHER FREEMAN,

Respondent.

UNPUBLISHED
November 16, 2006

No. 268960
Macomb Circuit Court
Family Division
LC No. 2004-5699711-NA

Before: Whitbeck, C.J., and Saad and Schuette, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(a)(ii), (c)(i) and (ii), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

I. FACTS

Respondent Mellissa Shepard has three minor children, Christian Shepard, Stephanie Freeman, and Ashlee Freeman. A temporary custody petition was authorized on June 30, 2004, alleging physical and environmental neglect and drug use. All three children had been living with father Shawn Freeman, but respondent mother allegedly knew of the home conditions and failed to seek custody or visit consistently. She had suspected Shawn's drug use and was aware that the gas had been shut off in his home, and Shawn admitted that the home was found to present health and safety risks. Respondent had lived with friends in a neat and clean home, but it lacked sufficient space until renovations were complete. Previously, she had problems with drug use, depression, and suicidal thoughts. She took various prescription medicines. She had

entered two drug treatment centers and said she had been clean for a year. The children were placed with paternal grandfather and stepgrandmother Danny and Josephine (Josie) Freeman.

Respondent was required to (1) complete and benefit from parenting classes, address and follow up on the children's educational needs, and visit regularly, (2) provide random drug and alcohol screens, have a substance abuse assessment, and follow recommendations, (3) complete a psychological evaluation, follow recommendations, and continue counseling with Community Mental Health (CMH) and other counseling as necessary, (4) obtain and maintain employment and a clean, suitable home, and (5) contact the worker regularly. Visitation was supervised at grandparents' home.

The paternal grandfather had moved to Alabama for a job and his wife wanted to join him. On July 30, 2004, Josie Freeman testified that she needed to move to Alabama because they could not support two households. The home was near Montgomery, a 14-hour drive. The referee proposed to allow the move and favored that every other visitation take place in Michigan. The parents missed two visits while the children were in Alabama for 6 months: one due to a hurricane and one in which they did not attend. When the children returned to Michigan in March 2005, the situation worsened instead of improving. Visitations were available but did not take place between April 2005 and November 8, 2005, when they were suspended. Her failure to visit caused the children emotional harm. Referrals were made for respondent's drug screens and assessment, parenting classes, psychological evaluation and therapy, but she had not complied. Since September 2004, respondent has had difficulty complying with the parent agency agreement.

II. TERMINATION OF PARENTAL RIGHTS

A. Standard of Review

Termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one ground for termination. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). Once this has occurred, the court shall terminate parental rights unless it finds that the termination is clearly not in the best interests of the children. *Id.* at 364-365. This Court reviews the lower court's findings under the clearly erroneous standard. MCR 3.977(J); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000).

B. Analysis

The trial court did not clearly err in finding the statutory grounds required pursuant to MCL 712A.19b(3)(c)(i) and (g) were established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, *supra* at 353. Respondent-appellant complied only minimally with one or two aspects of her treatment plan. She needed improvement in many areas, including parenting skills, emotional stability, substance abuse, employment, and housing. Establishing a guardianship with the paternal grandfather and stepgrandmother was not a viable alternative, because, as the guardian ad litem observed, the parents' pattern of failing to visit for long periods

repeatedly caused the children hurt and disappointment. The record did not show that, given additional time, respondent-appellant would be able to provide proper care and custody within a reasonable time considering the children's ages.

III. BEST INTERESTS OF THE CHILDREN

A. Standard of Review

Once a statutory ground for termination is established by clear and convincing evidence, the trial court must terminate parental rights unless termination clearly is not in the child's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 353. The trial court's decision on the best interests question is reviewed for clear error. *Trejo, supra* at 356-357.

B. Analysis

The evidence also demonstrated that termination of respondent-appellant's parental rights was not clearly contrary to the children's best interests. MCL 712A.19b(5); *Trejo, supra* at 356-357. The children need a permanent, safe, stable home, which respondent-appellant cannot provide. We have examined the record and find no clear error in the trial court's decision. While the trial court did not make specific findings of fact concerning the best interests of the children, our review of this case discloses no error in the decision terminating respondent appellant's parental rights. *In re Gazella*, 264 Mich App 668, 678; 692 NW2d 708 (2005).

Affirmed.

/s/ William C. Whitbeck
/s/ Henry William Saad
/s/ Bill Schuette